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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA
(Circuit at Port Blair)

No. O.A. 351/00237/2020

Date of order: 5.1.2021

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

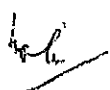
Shri A. Ganga Raju,
Son of Shri A. Devaraju,
Working as Safaikarmchari,
Under the respondent No. 6,
Resident of Shristi Nagar,
Port Blair Tehsil,
South Andaman.

.....Applicant

- Versus -

1. The Union of India,
Through the Secretary,
Ministry of Home Affairs,
Govt. of India,
Central Secretariat,
North Block,
New Delhi - 110 001.
2. The Union of India,
Through the Secretary to the
Govt. of India,
Ministry of Health and Family Welfare,
Shastri Bhawan,
New Delhi - 110 001.
3. The Hon'ble Lt. Governor,
Andaman & Nicobar Islands,
Raj Niwas,
Port Blair - 744 101.
4. The Andaman & Nicobar Administration,
Through the Chief Secretary,
Andaman & Nicobar Administration,
Secretariat,
Port Blair - 744 101.
5. The Director of Health Services,
Andaman & Nicobar Administration,
Port Blair.

.....Respondents





For the Applicant : Mr. G.B. Kumar, Counsel

For the Respondents : Mr. K. Rao, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

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- "A. An order be passed directing the respondent No. 6 to immediately declare the respondent No. 6 to immediately declare the result of typing test held on 5.10.2019 in the Conference Hall under the respondent No. 6 at Port Blair for the post of Medical Record Assistant under the respondent No. 6 and to proceed further to complete the said process for promotion to the post of Medical Record Assistant within a time frame.
 - B. An order be passed directing the respondent authorities to transmit the original records of the case before this Hon'ble Court, so that after perusing the same conscionable justice may be rendered to the applicant.
 - C. Any other relief or reliefs, order or orders, direction or directions as your Honour deem fit and proper."

2. Heard both Ld. Counsel, examined pleadings and documents on record.

3. The submissions of the applicant, as articulated through his Ld. Counsel is that, the applicant is a Safai Karmachari with the Office of the respondent No. 6.

That on 8.1.2019, a circular was issued by the Office of Respondent No. 6 whereby it was notified that two posts of Medical Record Assistant in the Pay Band of Rs. 5200-20200/- with Grade Pay of Rs. 1900/- would be filled up in accordance with the prevalent recruitment rules.

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The eligibility conditions as laid down in the Recruitment Rules at Annexure A-3 were as follows:-

“RECRUITMENT RULES FOR THE POST OF MEDICAL RECORD ASSISTANT IN THE ANDAMAN AND NICOBAR HEALTH DEPARTMENT

1.	Name of the post	MEDICAL RECORD ASSISTANT
2.	No. of post	04 (Four) 2012* *Subject to variation dependant on workload
3.	Xxx	Xxx
4.	Xxx	Xxx
5.	Xxx	Xxx
6.	Xxx	Xxx
7.	Educational and other qualification required for direct recruitment	<p>Essential:-</p> <p>i) Senior Secondary School Certificate Examination (XIIth Std.) passed from a recognized Board/Institution.</p> <p>ii) Should qualify in the written Competitive Examination.</p> <p>iii) A typing speed of 30 words per minute in English or 25 w.p.m. in Hindi on normal typewriter (OR)</p> <p>A typing speed of 35 w.p.m. in English or 30 w.p.m. in Hindi or Computer</p> <p>(35 w.p.m. and 30 w.p.m. correspondence to 10500 KDPH/9000 KDPH in an average of 5 key depression for each word.)</p> <p>Desirable:- Knowledge of Computer</p>
8.	Xxx	Xxx

Xxxxxx”

The circular dated 8.1.2019 as Annexed at Annexure A-4 to the O.A. laid down that the aspiring candidates must have matriculation or equivalent educational qualifications and also that they must possess a

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minimum speed of 30 w.p.m. in type writing and 35 w.p.m. in Computer and must qualify in the Type Writing test and Computer as prescribed.

That, 24 names of the applicant candidates were prepared on the basis of applications received thereupon, and, on 19.9.2019, the applicant was directed by an Office Memorandum vide Annexure A-6 to the O.A to appear at the said test .

Further, vide orders dated 4.10.2019 (Annexure A-8 to the O.A.) an observer official was also engaged for overseeing the screening /proficiency test in type writing. The applicant is aggrieved that despite having participated in the same, and, passage of more than three months as on the date of filing of the Original Application, the results of the type writing tests were not declared and the process of selection to the post of Medical Record Assistant has not been finalized. As the respondents have refused to respond to his many attempts to ascertain the fate of such selection, being aggrieved, the applicant has approached this Tribunal for relief.

4. Ld. Counsel for the respondents has filed a brief reply in which he would draw our attention to a complaint that was received from one of the aspiring candidates at Annexure R-1 to the reply and further disclosed that based on such complaint, the authorities have taken a decision to cancel the type writing test. It was also indicated in the said reply that 21 candidates had appeared for the said type writing test as required for the said selection process.

The complaint (Annexure A-1 to the reply colly.) that forms a basis of the purported cancellation of the process reads as follows:-

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"To

The Director of Health Services,
A&N Administration,
Port Blair.

Sub:- Regarding the requirement process of Medical Record Assistant 2019.

Sir,

With profound request I would like to bring the following lines for your kind consideration.

Sir, the selection process for the post of MRA which is carried out by our department was very unprofessional.

Sir, I have received the Memo on 30.9.2019 vide No. 3-32/2003/DHS/3851 dated 19.9.2019 and the typing test is scheduled on 5.10.2019, sir, in this short period we can't able to prepare for the typing test and secondly the typing test is conduct on Microsoft Word which is not the proper software to conduct the typing test.

So, I request you to kindly cancel the selection process of MRA and fix on fresh date for typing test and enable us to prepare for the typing test please.

Thanking you,

Yours faithfully,

Place: Port Blair
Date: 11.11.2019

(Rathin roy)
Ward Attendant
CHC, Rangat"

Upon an examination of the same, it transpires that the components has raised two issue:

- (i) That, the period between 19.9.2019 to 5.10.2019 is too short to prepare for a type writing test.
- (ii) Microsoft word is not the proper software to conduct the type writing test.

The above complaint does not subscribe to objective logic and reason.

- (i) The aspiring candidates should either have knowledge of type writing and demonstrate their skills accordingly in the tests specified or if they do not have such knowledge, it is not possible for them to acquire such knowledge within a period of 15 days so as to demonstrate their proficiency in the selection process.

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Hence, the excuse that the time period is too short for preparing for a type writing test does not hold water because prima facie, the candidates have to be proficient in type writing and demonstrate their skills accordingly.

(ii) The complaint on computer software is also questionable. Anybody knowledgeable with computers would know that Microsoft software is the standard software for typing any sentence, paragraph, notice, letter, essay and similar items in the form of a word document.

Therefore, the complainant's reference to an alternative software for conducting type writing test, places the onus on him to specify the same. Interestingly, the complaint has not suggested the optional software.

Hence, the complaint being of a frivolous nature should not have been the basis of cancellation of a process in which 21 aspiring candidates have participated. In his rejoinder, the applicant has highlighted that the typewriting test was conducted transparently in the presence of an observer.

Also no other participant has complained on irregularity of the process.

5. The respondents very fairly admitted that the cancellation has not been notified.

In ***Dr. R. Murali v. Dr. R.K. Kamalakkannan, 2000 (1) SLR 600 (FB - Mad)*** it was held that a person challenging the selection process must have locus standi to do so. In this case, as the candidate has not participated in the selection process, his locus in demanding cancellation of the selection process is not established. This is even more so when there is no allegation that the selection have suffered from glaring illegality as ruled in ***Raj Kumar v. Shakti Raj, (1997) 9 SCC 527.***

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6. Hence, being convinced that the cancellation was arbitrary in nature, we would direct the respondents to disclose the results of the type writing test held on 5.10.2019, within two weeks of receipt of this order and to proceed further to complete the process of promotion to the post of Medical Record Assistant within a further period of three months thereafter.

7. Hence, the O.A. succeeds. No costs.



(Dr. Nandita Chatterjee)
Administrative Member

SP

(Bidisha Chatterjee)
Judicial Member